

Summary of CGS § 8-30g, Connecticut's Affordable Housing Land Use Appeals Act

For the North Stonington Affordable Housing Committee

April 12, 2021

In 1989, the Connecticut Legislature passed a law to facilitate the construction of affordable housing where municipal zoning would otherwise prevent its construction. CGS § 8-30g recognized that affordable housing was concentrated in the state's urban centers, and that zoning regulations in many municipalities limited opportunities for the construction of affordable housing.

In municipalities where less than 10% of housing meets the statute's definition of affordable housing, developers may seek approvals for affordable or mixed-income developments even when they do not meet a property's zoning regulations. Appeals of zoning denials under 8-30g follow an alternative appeals procedure. To win an appeal, a Zoning Commission must prove that:

- The denial was necessary to protect substantial public health and safety interests that clearly outweigh the need for affordable housing and cannot be protected by making reasonable changes to the application; OR
- The development is (a) not receiving government housing assistance funds and is (b) located in an industrial zone that does not permit residential uses.

Definition of Developments Facilitated by 8-30g

At least 30% of housing units in a development seeking approval under 8-30g must be affordable, with at least 15% affordable to households earning no more than 80% of median income and at least 15% affordable to households earning 60%. Housing is considered affordable when it costs its occupants no more than 30% of income, including the cost of utilities. For the purposes of 8-30g, median income is defined as the lesser of Connecticut's state median income or the property's Area Median Income, as determined by HUD. As shown below, a three-person family would qualify for income at the 80% AMI threshold if the family earns no more than \$70,650 per year. Their housing could cost nearly \$1800 per month (including utilities) and be considered affordable to the family. Different funding programs support the development of housing at lower income levels, including for extremely low income households, which earn roughly 30% of the area median income, or less.

| HUD Metro Area | Median Family Income | Income Category | Persons in Family | | | |
|--------------------------|----------------------|--------------------------------------|-------------------|----------|----------|----------|
| | | | 1 | 2 | 3 | 4 |
| Norwich-New London Metro | \$91,800 | Low Income (80%) | \$54,950 | \$62,800 | \$70,650 | \$78,500 |
| | | <i>Equiv. Monthly Housing Budget</i> | \$1,374 | \$1,570 | \$1,766 | \$1,963 |
| | | Very Low Income (50%) | \$35,950 | \$41,050 | \$46,200 | \$51,300 |
| | | <i>Equiv. Monthly Housing Budget</i> | \$899 | \$1,026 | \$1,155 | \$1,283 |
| | | Extremely Low Income (30%) | \$21,600 | \$24,650 | \$27,750 | \$30,800 |
| | | <i>Equiv. Monthly Housing Budget</i> | \$540 | \$616 | \$694 | \$770 |

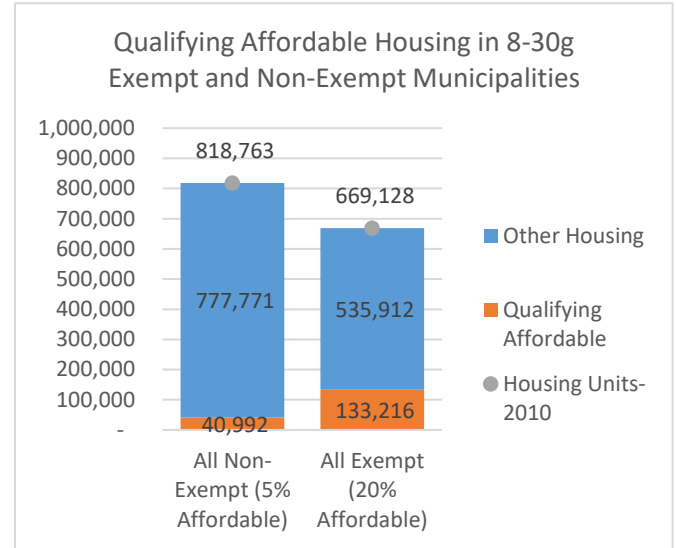
Developments may receive government subsidies for construction, but may also be "internally financed," where the profits from market-rate units offset the costs of maintaining the affordable units. At the time of application, the developer must submit an "Affordability Plan" which, among other requirements, establishes what person or entity will be responsible for ensuring the affordability of the required units, and details a marketing plan for the affordable units which meets affirmative fair housing requirements.

Municipal Exemption from 8-30g

As of 2020, 31 municipalities were exempt from 8-30g because 10% or more of their housing was affordable. The average share of qualifying affordable housing in the 31 exempt municipalities is 20%, vs. just 5% in all other Connecticut municipalities.

The list of municipalities exempt from 8-30g is updated every year. For the purpose of calculating the share of affordable housing, housing is counted if it meets four different criteria:

- “Government Assisted”- the property has received financial assistance that requires the housing to be provided to low-income households at affordable rates. Examples are developments built with state or federal grants such as the federal Low Income Housing Tax Credit program (LIHTC) or state Competitive Housing Assistance for Multifamily Properties (CHAMP) program.
- “Tenant Assisted”- the property is occupied by households receiving housing assistance, such as mobile Section 8 vouchers which supplement tenant rent to enable affordability.
- Single-Family properties purchased with CHFA or USDA mortgages. The Connecticut Housing Finance Agency (CHFA) provides low-interest mortgages and down payment assistance to first-time homebuyers. In most southeastern CT communities, borrowers must earn no more than \$117,990 per year (family of three or more) and be purchasing a home with a maximum purchase price of \$294,600. Similar USDA mortgages are available for purchase of homes in non-urban areas.
- “Deed-Restricted”- The property is legally restricted to occupancy by low-income households at affordable rates, usually because of conditions imposed at the time of the development’s approval because the property was approved under 8-30g or zoning regulations requiring affordability (inclusionary zoning).



Most of North Stonington’s 34 qualifying units are homes financed with CHFA or USDA mortgages. Also included are six deed-restricted units (the affordable Watson Estates homes), and one tenant assistance unit, likely a household with a mobile Section 8 Rental Assistance voucher.

| Town | Total Housing Units (2010 Census) | 10% Threshold | Government-assisted | Tenant Rental Assistance | Single-family CHFA/ USDA Mortgages | Deed-restricted Units | Total Assisted Units | Percent Affordable |
|------------------|-----------------------------------|---------------|---------------------|--------------------------|------------------------------------|-----------------------|----------------------|--------------------|
| North Stonington | 2,306 | 230 | 0 | 1 | 27 | 6 | 34 | 1.47% |

Temporary 8-30g Moratorium

Municipalities may also be temporarily exempted from some 8-30g applications after new affordable housing is created within a municipality. A four-year moratorium on 8-30g applications is granted when the number of new affordable units reaches a threshold amount determined by formula. The moratorium does not apply to a) applications for housing where at least 95% of units are affordable to households at 60% AMI or b) applications for assisted (government subsidized) housing of not more than 40 units.

Municipalities earn “Housing Unit Equivalent” points for new affordable housing that vary based on the type of housing and the affordability target. In order to achieve a moratorium, municipalities must earn points that are the great of 2% of the housing stock as of the last decennial census or (as of 2022) 75 points.

The 75 point threshold would apply to North Stonington. The six affordable homes built as part of Watson Estates would accrue 10.5 points that could be applied toward an eventual moratorium: 3 points for the three units at 80% AMI, 4.5 points for the three units at 60% AMI, and 3 points for the 12 associated market-rate units. A hypothetical 20-unit affordable rental property would qualify for 35 points if half the units were affordable at 80% AMI (15 points) and half at 60% AMI (20 points). With Watson Estates already worth 10.5 points toward the 75 point threshold, North Stonington could achieve a moratorium with as few as 26 additional affordable rentals (family units affordable to families at 40% Area Median Income) or as many as 129 homes for senior-citizens at 80% Area Median Income.

Moratorium Calculation- Points per Unit

As of Oct. 1, 2022

(+ means bonus)

| | |
|--|-------|
| <i>Family unit, owned, 80% AMI</i> | 1 |
| <i>+60% AMI</i> | +0.5 |
| <i>+40% AMI</i> | +1 |
| <i>+Rental</i> | +0.5 |
| <i>Elderly unit (80% AMI or less)</i> | 0.5 |
| <i>Market-rate set-aside unit</i> | +0.25 |
| <i>Mobile Home in Qualifying Resident-Owned Mobile Home Park</i> | |
| <i>Household at 80% AMI</i> | 1.5 |
| <i>+60% AMI</i> | +0.5 |